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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ORGANOGENESIS, INC.,

Plaintiff,

- against -

ADVANCED BIOHEALING, INC.,

Defendant.

08 Civ. 875 (AKH)

KEITH O'BRIANT, declares as follows:

1. I am currently employed as Vice President of Sales for defendant Advanced Biohealing, Inc. ("ABH") and have held this position since October 2006. In this capacity, I have responsibility for oversight of ABH's sales organization and for supervising all individuals in ABH's sales department.

2. I submit this declaration in opposition to the motion by plaintiff Organogenesis, Inc. ("OI") for a temporary restraining order and preliminary injunction. The statements contained herein are based upon my own personal knowledge.

3. On January 11, 2008 I instructed members of ABH's sales organization, through the sales managers, to cease communications about OI's Apligraf recall. On January 14, I instructed the sales managers to remind the entire sales organization to cease communications about OI's Apligraf recall. On January 15, I directly reminded all members of ABH's sales organization to cease such communications.

4. On January 24, 2008, I sent another email to ABH's entire sales organization to cease communications about OI's Apligraf recall. I included ABH's marketing and customer service departments on that email. A copy of this email is attached as Exhibit 1.

5. I am presently not aware of any individual at ABH that has communicated about OI's Apligraf recall after January 14, 2008, other than internal ABH discussions and conversations with ABH's counsel.

I declare under penalties of perjury pursuant to 28 U.S.C. § 1746 the foregoing statements are true and correct to the best of my knowledge.



KEITH O'BRIANT

## **EXHIBIT 1**

**Marks, James (NYC - X73531)**

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**From:** Keith O'Briant [kobriant@advancedbiohealing.com]  
**Sent:** Thursday, January 24, 2008 6:49 PM  
**To:** abhsales  
**Cc:** Tobin, Charles D (WAS - X72539); Marks, James (NYC - X73531); Gaba, Michael M (WAS - X72435); Kevin Rakin  
**Subject:** Attention - Compliance needed reminder  
**Importance:** High

**IMPORTANT NOTICE: STRICT COMPLIANCE NEEDED**

Team,

As a follow-up to my previous emails, I am reminding you not to distribute, show or otherwise disseminate Organogenesis's December 27, 2007 recall notice to anyone by any means, which includes email, fax, or mail.

Also, please don't mention, discuss, or even reference Ol's recall notice when speaking with anyone. If you are asked about Ol's recall notice by anyone, please direct them to their Organogenesis representative.

Thanks again and please call me if you have any questions.

Good Selling,

Keith